

UNITED STATES PATENT AND TRADEMARK OFFICE
Trademark Trial and Appeal Board
2900 Crystal Drive
Arlington, Virginia 22202-3513

Mailed: April 22, 2003

Opposition No. 154,704

Manhattan Group, LLC

v.

Holmstrom, Eric James

Karen Kuhlke, Attorney:

On November 20, 2002, opposer filed a notice of opposition against all three classes in the involved application. On January 25, 2003, the Board issued the notice instituting this proceeding and allowed applicant until March 6, 2003 to file an answer or other response thereto. Subsequently, applicant's proposed amendment to the application, filed on December 21, 2002, was associated with the case file.

First, inasmuch as it appears that no answer has been filed, nor has applicant filed a motion to extend its time to answer, notice of default is hereby entered against applicant under Fed. R. Civ. P. 55(a).

Second, inasmuch as the proposed amendment was filed after the proceeding commenced and it is a deletion of two entire classes, it is governed by Trademark Rule 2.135, which

provides that if, in an inter partes proceeding, an applicant files an abandonment¹ without the written consent of every adverse party to the proceeding, judgment shall be entered against the applicant. However, because the amendment was filed prior to the institution of the proceeding, applicant will be allowed time in which to: (1) obtain opposer's written consent to the abandonment of classes 9 and 41; or (2) withdraw the proposed amendment, failing which judgment will be entered against applicant as to classes 9 and 41.

In view of the above, applicant is allowed until thirty days from the mailing date of this order to: (1) show cause why judgment by default should not be entered against applicant as to all three classes in accordance with Fed. R. Civ. P. 55(b); and (2) to file opposer's written consent to the abandonment of classes 9 and 41, or applicant's withdrawal of the proposed amendment.

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¹ The request to amend an application by deleting an opposed class is, in effect, an abandonment of the application with respect to that class, and is governed by Trademark Rule 2.135. See TBMP Section 602.

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